



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

On January 13, 2019, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for the Landlord to return of all or part of the pet damage deposit or security deposit, and to recover the filing fee for the Application.

The Tenant and Landlord appeared at the hearing. The hearing process was explained and the parties were asked if they had any questions. The parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the Tenant entitled to the return of double the security deposit?

Background and Evidence

The parties testified that the tenancy began in April 2018, and ended on December 20, 2018. The parties testified that the Tenant paid the Landlord a security deposit of \$1,650.00

The Tenant testified that the Landlord did not return the security deposit after the Tenant moved out of the rental unit.

The Tenant testified that there was no agreement that the Landlord could retain any amount of the security deposit at the end of the tenancy.

The Tenant testified that he provided the Landlord with his forwarding address in writing on December 20, 2018.

The Tenant submitted that the Landlord failed to repay the security deposit to him within 15 days of December 20, 2018; the end date of the tenancy.

In reply, Landlord testified that she received the Tenant's forwarding address on December 20, 2018; however, she was going out of town and did not return the deposit within 15 days. She testified that when she returned it was past the 15 days and the Tenant wanted to proceed with dispute resolution process to make a claim for the return of the security deposit.

Analysis

Section 38 (1) of the Act states that within 15 days after the later of the date the tenancy ends, and the date the Landlord receives the Tenant's forwarding address in writing, the Landlord must repay any security deposit or pet damage deposit to the Tenant with interest calculated in accordance with the regulations, or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

I find that the tenancy ended on December 20, 2018, and the Landlord received the Tenant's forwarding address on December 20, 2018. I find that there was no agreement from the Tenant that the Landlord could keep any amount of the security deposit.

I find that the Landlord failed to make a claim against the security deposit or repay the security deposit within 15 days of the end of the tenancy.

Residential Tenancy Policy Guideline # 17 Security Deposit and Set Off provides:

If the landlord does not return or file for dispute resolution to retain the deposit within fifteen days, and does not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit.

I find that the Landlord's breached section 38 of the Act. Pursuant to section 38(6) of the Act, the Landlords must pay the Tenant double the amount of the security deposit. I find that the Landlord owes the Tenant the amount of \$3,300.00.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was successful with his application, I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

I grant the Tenant a monetary order in the amount of \$3,400.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

Conclusion

The Landlord failed to return the security deposit to the Tenant in accordance with the section 38 of the Act.

The Tenant is awarded double the amount of the security deposit. I grant the Tenant a monetary order in the amount of \$3,400.00.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 06, 2019

Residential Tenancy Branch